

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Amendments to Chapter 12-48
Hawaii Administrative Rules

June 20, 2012

SUMMARY

1. §§12-48-2, 12-48-3, 12-48-5, 12-48-6, 12-48-8, 12-48-9, 12-48-10 and 12-48-11 are amended.
2. §12-48-7 is repealed.

§12-48-2 Scope. Certification of hoisting machine operators is limited to operators of power-operated equipment covered by 29 C.F.R. §1926.1400 and meeting operator qualification and certification requirements under 29 C.F.R. §1926.1427.
[Eff 12/6/02; am JUL 30 2012] (Auth: HRS §396-4)
(Imp: HRS §§396-4, 396-19)

§12-48-3 Definitions. As used in this chapter:

"ASME B30.3" means ASME B30.3-2009, American Society of Mechanical Engineers Safety Standards.

"ASME B30.5" means ASME B30.5-2007, American Society of Mechanical Engineers Safety Standards.

"Board" means the hoisting machine operators' advisory board.

"Certificate" means any hoisting machine operator certificate, or renewal certificate issued by the director authorizing a person to operate a hoisting machine.

"Certified operator" means a person with a current and valid certificate, or renewal certificate issued by the director to operate a hoisting machine.

"Department" means the State department of labor and industrial relations.

"Director" means the director of the department of labor and industrial relations or the director's designee.

"DOT" means State department of transportation.

"NCCCO" means National Commission for the Certification of Crane Operators.

"Non-certified operator" means any person who operates a hoisting machine without a valid and current certificate issued by the director.

"State" means State of Hawaii.

[Eff 12/6/02; am JUL 30 2012] (Auth: HRS §396-4)
(Imp: HRS §§396-4, 396-19)

§12-48-5 Certificate required. (a) No person shall operate a hoisting machine covered by this chapter without a current certificate except as identified in this chapter.

(b) Any person who operates a hoisting machine shall have and carry a current and valid certificate while operating a hoisting machine.

(c) An operator must have a current physical examination certificate as required in section 12-48-6(b) at all times. Such proof, must be submitted upon request to the director within two hours of request.

[Eff 12/6/02; am JUL 30 2012] (Auth: HRS §396-4)

(Imp: HRS §§396-4, 396-19)

§12-48-6 Application process. (a) An applicant for a certificate shall be at least twenty-one years of age at the time of application and provide proof of age by submitting a valid original of any two of the following for the purpose of photocopying:

- (1) Birth certificate;
- (2) Driver's license;
- (3) Passport; or
- (4) Hawaii State ID.

(b) An applicant must have passed a physical examination that meets the requirements of ASME B30.3, Section 3-3.1.2(b) or ASME B30.5, Section 5-3.1.2(a), as applicable, and provide evidence of such examination by submitting a complete and current copy of one of the following:

- (1) NCCCO medical examiner's certificate; or
- (2) A DOT certificate of medical examination.

(c) At the time of application, an applicant must provide a current NCCCO certificate or an equivalent form of certification showing the applicant has hoisting machine operation experience as required for the NCCCO written exam. A copy of the NCCCO experience form is acceptable.

(d) Applications shall be submitted on forms provided by the director. A completed application shall consist of the form provided by the director that is completely answered by the applicant, an application fee, and all supporting documents required in subsections (a) through (c). A completed application shall be submitted to the director.

(e) The director shall notify the applicant whether the application was approved or disapproved within sixty calendar days of receipt of a completed application. Approved applicants must submit the required certification fee within thirty calendar days of receiving notice of approval or must re-apply. The director shall issue the state hoisting machine operator certificate within thirty days of receipt of the certification fee.

(f) For initial applications only, a certificate shall be valid for the balance of any current NCCCO

§12-48-7

§12-48-7 REPEALED. [Eff 12/6/02;
R JUL 30 2012]

§12-48-8 Renewals. (a) Applications to renew a certificate shall be made on forms provided by the director and must be submitted to the director with a nonrefundable renewal fee. Renewal applications must be submitted with the required documents and forms identified in sections 12-48-6(b) and (c).

(b) An application for renewal must be filed with the director no later than ninety days after a current certificate expires. Renewals will be granted or denied within sixty days of receipt of a complete renewal application as defined in section 12-48-6(d). An application for renewal filed more than ninety days after a current certificate expires, shall be considered a new application.

(c) A renewal certificate shall be valid for the balance of the NCCCO certification or other equivalent certification approved by the board, but shall not exceed five years. [Eff 12/6/02; am JUL 30 2012]
(Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-9 Denials, suspensions, and revocations.

(a) The director may deny, suspend, or revoke a certificate or deny the issuance or renewal of a certificate for any of the following reasons:

- (1) A violation of 29 C.F.R. Part 1926, ASME B30.3 or ASME B30.5;
- (2) Non-compliance with an order of the director within the time specified in the order; Conviction of a crime directly related to the safe operation of a hoisting machine where an applicant or certified operator has not been sufficiently rehabilitated;
- (4) A mental or physical defect that causes an inability to safely operate a hoisting machine;
- (5) Providing false information or making any misrepresentation to obtain a certificate;
- (6) Habitual intoxication, addiction to or the unlawful use of narcotics, or the use of any drugs or medications that could impair an operator's ability to safely operate a hoisting machine;
- (7) An accident involving a hoisting machine operated by the person applying for or seeking to renew a certificate; or
- (8) For any other reason, which in the discretion of the director, would create a hazard or risk to persons or property.

(b) Operation of a hoisting machine in violation of this chapter, may result in the revocation of a certificate or the suspension of a certificate for not less than twenty-four hours but not more than one year.

(c) If the director finds an accident was caused by the actions or omissions of a certified operator and suspends or revokes the certified operator's certificate, the director may require the certified operator to retake and pass a certification examination before applying to have his or her certificate reinstated.

§12-48-10 Appeals process. (a) Any denial, revocation, or suspension shall be final and conclusive against an applicant or certified operator unless a written notice of contest is filed with the director. The written notice of contest shall be an original, served on the director, and must be postmarked, or if not mailed, received and filed by the director within twenty calendar days of the denial, revocation, or suspension.

(b) The director shall hold a hearing within thirty calendar days after receiving a timely notice of contest. The hearing shall be de novo and all findings and conclusions by the director may be contested on the record only to the Hawaii labor relations board.

(c) The applicant or certified operator may request an informal conference to discuss a denial, revocation, or suspension, but an informal conference shall not suspend or change the twenty-day deadline for filing a notice of contest.

(d) A certified operator whose certificate is revoked shall, upon receiving notice of the revocation, immediately surrender the certificate to the department. [Eff 12/6/02; am JUL 30 2012]
(Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-11 Fees. (a) An applicant shall submit a completed application to the director with a \$50 application fee.

(b) Upon receiving notice that an application has been approved, an applicant shall remit a \$500 certification fee to the director within thirty calendar days. For certification periods of less than five years, the certification fee for each year or portion of a year shall be \$100.

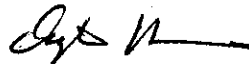
(c) Renewal applications shall be submitted to the director and accompanied with a renewal fee of \$500.

(d) All application and certification fees shall be non-refundable. [Eff 12/6/02;
am JUL 30 2012] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

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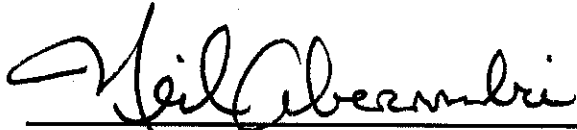
Chapter 12-48, Hawaii Administrative Rules on the Summary Page dated June 20, 2012, was adopted on June 20, 2012, following a public hearing held on June 20, after public notice was given in the Star Bulletin on April 27, 2012.

The adoption of chapter 12-48 shall take effect ten days after filing with the Office of the Lieutenant Governor.



DWIGHT TAKAMINE
Director
Department of Labor and
Industrial Relations

APPROVED:



NEIL ABERCROMBIE
Governor
State of Hawaii

Dated: 7.19.12

APPROVED AS TO FORM:



Deputy Attorney General

12 JUL 20 PM 3:34
Filed

LIEUTENANT GOVERNOR
OFFICE